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EXAMINER

JAGANNATHAN, MELANIE

ART UNIT

PAPER NUMBER

2666

3

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/703,424

Applicant(s)

RAMSEY ET AL.

Examiner

Melanie Jagannathan

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1-9,11-22,30-38,40-46,48-56,58-65 are rejected under 35 U.S.C. 102(e) as being anticipated by Pickering et al US 6,628,666.

Regarding claims 1-3,6, 11-15, 17-19,21-22,30-32,35,40-43,48-50,53,58-62,64-65, the claimed receiving call setup request for voice over packet call is disclosed by client at call center initiates Internet Protocol Network Telephony call (Figure 1, element 200) to receiving client (elements 160,170). The claimed determining whether bandwidth is available on a communication link between origination and destination points is disclosed by monitoring for available bandwidth along path. See column 6, lines 4-42. The claimed presenting at least one call completion option for a call originator when bandwidth is not available is disclosed by if there is not sufficient bandwidth available, client is prompted by SW offering option for customer to switch call over to PSTN or ISDN. See column 6, lines 43-60.

Regarding claims 4-5, 16, 20, 33-34,44-45, 51-52,63,the claimed receiving a hold option, storing the call setup request in response to selection of hold and ring back options, determining when bandwidth is available and establishing a connection between using packet switched network when bandwidth is available is disclosed by detection and monitoring steps where if

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IPNT call has been initiated, software begins monitoring for available bandwidth over Internet (Figure 2, step 250) and if bandwidth is not available, client switched to PSTN call but if stuck in waiting queue of PSTN call can be switched back to IP call provided a desired quality of service becomes available and clients are alerted and requested to verify or authorize the transfer. See column 7, lines 6-14, 29-56.

Regarding claim 7,36,46,54, the claimed updating a call status table is data server storing information pertaining to caller and information required by agents to perform their functions. See column 5, lines 20-23.

Regarding claims 8-9,37-38,55-56, the claimed presenting call completion option using an interactive voice response system is disclosed by not only can client be informed of switch through pop-up window on screen and asked for permission to switch but also manual execution of call switching may be available to user and client must authorize transfer. See column 7, lines 30-55, column 8, and lines 19-30.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 10,23-29,39,47,57,66-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickering et al. in view of Ash et al. US 6,590,867.

Regarding claims 10,39,57, Pickering et al. discloses all of the limitations except for bandwidth table. Ash et al. discloses bandwidth broker utilizing link status information flooded to it to store in order to determine availability of links. At the time the invention was made it would have been obvious to modify Pickering et al. with bandwidth table including information about available, maximum bandwidth at certain locations. One of ordinary skill in the art would be motivated to do so for maintaining quality of service for communication.

Regarding claims 23,27,66, Pickering et al. discloses all of the limitations except for checking bandwidth availability on first and second links. Ash et al. discloses checking of links forming selected path have the available bandwidth capacity and if not selecting another path and repeating step of determining bandwidth availability. See column 5, lines 6-23. At the time the invention was made it would have been obvious to modify Pickering et al. with checking of multiple links for bandwidth availability. One of ordinary skill in the art would be motivated to do so for maintaining quality of service for communication.

Regarding claims 24-25, 67-68, the claimed receiving call setup request for voice over packet call is disclosed by client at call center initiates Internet Protocol Network Telephony call (Figure 1, element 200) to telephone station (element 15). The claimed determining whether

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bandwidth is available on a communication link between origination and destination points is disclosed by monitoring for available bandwidth along path. See column 6, lines 4-42. The claimed presenting at least one call completion option for a call originator when bandwidth is not available is disclosed by if there is not sufficient bandwidth available, client is prompted by SW offering option for customer to switch call over to PSTN or ISDN. See column 6, lines 43-60.

Regarding claims 26-27,69-70,the claimed receiving a hold option, storing the call setup request in response to selection of hold and ring back options, determining when bandwidth is available and establishing a connection between using packet switched network when bandwidth is available is disclosed by detection and monitoring steps where if IPNT call has been initiated, software begins monitoring for available bandwidth over Internet (Figure 2, step 250) and if bandwidth is not available, client switched to PSTN call but if stuck in waiting queue of PSTN call can be switched back to IP call provided a desired quality of service becomes available and clients are alerted and requested to verify or authorize the transfer. See column 7, lines 6-14, 29-56.

Regarding claim 28, 71,the claimed updating a call status table is data server storing information pertaining to caller and information required by agents to perform their functions. See column 5, lines 20-23.

Regarding claims 29,47,72, Pickering et al. discloses all of the limitations except for second status table synchronized to first status table. Ash et al. discloses routers within the network exchanging information with each other by a flooding technique so that each router can maintain a database of the network topology. See column 1, lines 24-40 and Figure 1. At the time the invention was made it would have been obvious to a person of ordinary skill in the art to

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modify Pickering et al. with status tables of Ash et al. One of ordinary skill in the art would be motivated to do so for updating topology of network.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Farris et al. US 6,574,216 disclose packet data network voice call quality monitoring.

Komatsu US 5,675,577 discloses internetwork routing using different service categories for establishing alternate route.

Iwama et al. US 6,600,735 disclose Internet telephone connection method, bandwidth controller and gatekeeper.

Dunn et al. US 6,324,280 disclose optimum routing of calls over the public switched telephone network and the Internet.

Donak et al. US 6,330,316 disclose alternate routing schemes using quality of service information for calls involving unreliable networks.

Ho US 6,452,922 discloses method and apparatus for fallback routing of voice over Internet Protocol call.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Jagannathan whose telephone number is 703-305-8078. The examiner can normally be reached on Monday-Friday from 8:00 a.m.-4:30 p.m..

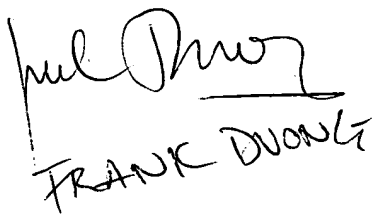
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 703-308-5463. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie Jagannathan  
Patent Examiner  
AU 2666

MJ



FRANK DUONG